



***Town of Tyngsborough***  
***Planning Board***  
25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Office: (978) 649-2300 ext. 115

MINUTES  
March 11, 2013  
Joint Meeting with the Board of Selectmen

**APPROVED**

Attachments:

1. Meeting Agenda

Members Present: Tom Delmore, Chairman  
Bill Gramer, Vice Chairman  
Steve Nocco  
Steve O'Neill  
Pamela Berman, Administrative Assistant

Members Absent: Caryn DeCarteret

**6:30pm -** Meeting called to order by Chairman Tom Delmore

**6:32pm** Street Acceptance Procedure

The Planning Board and Board of Selectmen met to further discuss how the Town can move forward and start accepting roads in Town that have not been accepted. In order for the Town to receive Massachusetts State Chapter 90 funding for road maintenance, a street must be accepted by the Town at Town Meeting. The acceptance process did not happen properly in all cases over the course of the Town's history, and the Town faces the situation of having unaccepted roads for subdivisions that were completed long ago and the developers have moved on.

For these unaccepted roads, the process that is used to accept a new street in 2013 cannot be utilized. Thus, the Boards discussed several alternatives to this process.

Alternative 1: First conduct an engineer inspection that would establish benchmarks on the road's condition. Second, look for monumentation (stone bounds, etc.) and verify that the road was built in the Right of Way. Finally, research the Right of Way at the Registry of Deeds to ensure that there are no conveyances outside of the approved plans. This option is very costly and may not be necessary if the Town does not want to acquire the fee in the Right of Way.

Alternative 2: Accept the road as an easement. Notify all abutters on the road, and perform a taking of the street for a fee. The Planning Board's engineer suggested that the fee paid to the abutters could be nominal, i.e., \$1.00, because the road is already shown on subdivision plans recorded at the Registry of Deeds and not part of the lots purchased

by homeowners within the subdivision. This option saves a lot of time and money because there would be no need for a detailed mapping of the Right of Way by finding the physical markers on the ground as the Town is not taking fee interest. The process would be taking an easement over the street area shown on already recorded subdivision plans for purposes of a public way and maintenance thereon.

Several concerns were raised regarding the condition of the road, the Town's liability on a road that is in disrepair and bond money that may be still pending on some of the unaccepted streets. Atty. Charles Zaroulis said that the Town's liability for a street defect is covered under the insurance policy that the Town has. The Town is not liable for the way a street was constructed as the street was constructed through the limits as laid out on the subdivision plans. T. Delmore indicated that any road that has bond money associated with it should not be considered for acceptance at this time.

A strategy was laid out for the Planning Board to move forward with street acceptance as is detailed below:

1. Identify streets that have subdivision plans recorded at the Registry of Deeds
2. Identify streets that are 20 years old or older
3. Exclude the streets that have bond money associated with them
4. Engineer J. Johnson will perform a visual inspection of the street to confirm that the street is indeed in place and completely constructed.

**7:30pm**

**S. O'Neill:** Motion to adjourn

**S. Nocco:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

Minutes respectfully submitted by  
Pamela Berman, Planning Board Administrative Assistant